

NEWARK
PUBLIC
INFORMATION
OFFICE



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Sharpe James, Mayor
Pamela E. Goldstein, Director

M E M O R A N D U M

TO: The Hon. Sharpe James, Mayor
FROM: Pam Goldstein, Communication Manager *ps*
RE: Guy LeBow and WNWK
DATE: June 3, 1994

Guy LeBow is back! And, he wants to wrestle control of WNWK once again. He contends that the station, while licensed to Newark, is doing nothing to serve the community....and, he's right.

We send the existing station staff news scripts several times a week, and they have not been using them for a long time. Not a word was mentioned about the municipal election--before or after, and now Guy contends that the announcers and other on-air people are using profanity. In addition, they are carrying advertisements for purveyors selling guns.

He has been monitoring the station, and has used his findings in an application to the Federal Communications Commission to be reconsidered (please see attached) for assignment of license of WKDM as well as WNWK. His idea is to return ownership of WNWK to the City of Newark, and then he would run it for \$1 per year. We have sent a letter to the FCC over your signature in support of his efforts.

He said he would like to meet with you at a private lunch or dinner or even in your office next week to discuss his plans. I think he also would like you to put in a good word to the President on his behalf.

When LeBow ran WNWK he was very generous to the City of Newark, the Board of Education and other local non-profits, as well as being very supportive of your activities.

Would you be willing to meet with him?

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

MAY 18 1994

In Reply Refer To:
1800B2-KDY

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In re: WKDM(AM), New York, New York
File No. BAL-940303EC
Application for Assignment of License

Dear Counsel:

We have on file your May 4, 1994 Petition for Reconsideration requesting that we reconsider our rescission of the grant of the above-captioned application for assignment of license of station WKDM(AM), New York, New York, from United Broadcasting Company, Inc. to Way Broadcasting, Inc. ("Way"). On April 19, 1994, the Commission granted the above-captioned assignment. On that same date, Citizens Committee for Better Broadcasting ("CCBB") filed a pleading styled as a Petition to Deny objecting to the above-captioned assignment.¹ Upon receiving a copy of CCBB's objection from the Office of the Secretary on

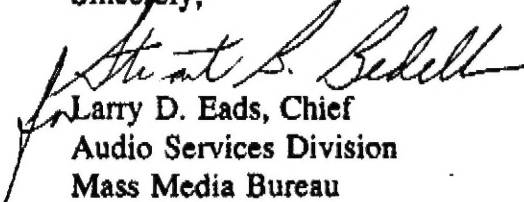
¹ On March 17, 1994, the Commission placed the subject application on Public Notice announcing the application's acceptance for filing. Pursuant to 47 C.F.R. § 1.4, petitions to deny the subject application were due by close of business April 18, 1994. CCBB's pleading, filed with the Commission's Secretary on April 19, 1994, the same date as the subject grant, is thus untimely as a petition to deny. See 47 C.F.R. § 73.3584 (a). Consistent with the public interest, however, we will accept the subject pleading as an informal objection to the instant application. See 47 C.F.R. § 73.3587.

April 20, 1994, the staff rescinded the grant and returned the application to pending status.²

Although you argue that CCBB's pleading cannot be countenanced as a timely objection and that "orderly administrative process" dictates that our prior grant be restored, we note that serious issues concerning, among other things, possible misrepresentation before the Commission have been raised in the objection. Moreover, your reliance upon West Michigan Telecasters, Inc., 12 RR 2d 133 (1968), for the proposition that we are constrained to consider the objection as a petition for reconsideration is misplaced.³ Furthermore, Commission Rule Section 1.113 provides that any action taken pursuant to delegated authority may be set aside within thirty days of public notice of that action. See 47 C.F.R. § 1.113. Accordingly, the staff's action, in rescinding the grant on the day following public notice of the grant, conformed with the Commission's Rules.

In view of the above, your Petition for Reconsideration of Recession of Grant is DENIED. In view of the circumstances surrounding our action rescinding the prior grant, we further find that your motion for extension of time to file a response to the objection until June 3, 1994 is warranted and is hereby GRANTED.

Sincerely,


Larry D. Eads, Chief
Audio Services Division
Mass Media Bureau

cc: Stephen B. LeBow, Esquire

² We also have on file a Motion for Extension of Time filed by Way requesting an additional period of time to respond to CCBB's pleading.

³ Western Michigan, supra, concerns the issue of standing required to file a petition for reconsideration where no timely petition to deny had been filed, and does not address the Commission's discretion to reconsider actions on its own motion under 47 C.F.R. § 1.113.